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Hoosick Falls partnership files suit over PFOA contamination

By - Associated Press – Friday

December 23, 2016

Washington Times

HOOSICK FALLS, N.Y. (AP) - The owners of a property on the market in upstate New York have sued two companies blamed for contaminating the village of Hoosick Falls' water supply.

The Times Union of Albany reports (<http://bit.ly/2hZa6j6>) Hoosick Falls Associates filed a complaint in state Supreme Court in Rensselaer County against Saint-Gobain Performance Plastics and Honeywell.

The partnership claims that the value of their 12-acre property, which houses a Tops grocery store, has been negatively impacted by the PFOA contamination made public last year.

According to the lawsuit, the market value for the property was \$2.1 million in 2015 but that figure has been "substantially diminished, if not rendered altogether valueless."

Saint-Gobain officials have vowed to fight the lawsuit. Honeywell says the lawsuit doesn't affect the company's ongoing obligation to remediation efforts.

Saint-Gobain, Honeywell sued over Hoosick Falls PFOA stigma: Owners say value of Hoosick Falls property was hurt by water pollution in village

By Brendan J. Lyons

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Times Union

Hoosick Falls

A partnership that owns the property housing a Tops grocery market in Hoosick Falls is suing two companies blamed for contaminating the village's water supplies, claiming the value of the 12-acre property was ruined by the environmental pollution that was made public last year.

A civil complaint filed in state Supreme Court in Rensselaer County says the partnership, Hoosick Falls Associates, listed its property on Route 22 for sale last year but three "interested buyers" backed away when the pollution crisis was revealed, and no others have shown interest in the property. The lawsuit notes the market value of the site last year was \$2.1 million, but is now "substantially diminished, if not rendered altogether valueless."

Tops has about 154 stores in New York. It is Hoosick Falls' only local grocery store and was used as a distribution center for the free bottled water given to residents after they were urged in December 2015 to stop drinking the village's water. A person familiar with the matter said Tops has a long-term lease for the site and if the property sold any new owner would take over that contract.

The free bottled water that has been supplied to residents for nearly a year at the store was paid for by Saint-Gobain Performance Plastics, which is a defendant in the lawsuit and owns a manufacturing plant on McCaffrey Street, near the village's underground well fields, that has been a focus of the contamination. Saint-Gobain has owned the plant since 1999.

The second defendant in the lawsuit, Honeywell International, also has helped pay for alternate water supplies for residents and businesses. Honeywell's predecessor

corporation, Allied Signal, operated the McCaffrey Street facility from 1986 to 1996, one of five companies that owned and operated the site since 1956.

The complaint seeks \$2.1 million in damages and alleges that even with the village now filtering the water to remove the manufacturing chemical, the stigma will linger for years.

"Buyers are reasonably fearful of purchasing property in an area that may be contaminated for the foreseeable future and beyond," the lawsuit states. "Accordingly, the damage done to the public perception of Hoosick Falls and the properties located therein cannot be undone with a filtration system or any other 'fix.' The news has spread across New York state. The fear is and will remain persistent. ... The stigma is permanent."

The hazardous man-made chemical, perfluorooctanoic acid or PFOA, has been used since the 1940s to make industrial and household products such as nonstick coatings, specialty tapes and heat-resistant wiring. Multiple specialty manufacturing plants in eastern Rensselaer County and North Bennington, Vt., used the chemical for decades before studies emerged a decade ago linking it to cancer and other serious diseases.

PFOA contamination sparked widespread public concern in Hoosick Falls when a resident, Michael Hickey, launched his own investigation and had samples of village water tested for the chemical in 2014. Hickey, an insurance underwriter, began researching contaminants in the village's water because he was concerned about what he believed was a high rate of cancer in the community. His father, John, died of kidney cancer in 2013 after working for decades at the Saint-Gobain Performance Plastics plant on McCaffrey Street, which has been the focus of the village's water contamination.

Early last year, several banks in Hoosick Falls suspended mortgages and refinancing applications in the affected area as the U.S. Environmental Protection Agency began examining whether portions of Hoosick Falls should become a federal Superfund site.

Saint-Gobain and Honeywell have been sharing costs for supplying water to village residents and conducting environmental investigations at Saint-Gobain's plants on

McCaffrey and Liberty Streets, and also on and around two properties located on John Street and River Road where PFOA may have been used during former manufacturing activities.

Attorneys for the two companies filed motions last year to have the Hoosick Falls Associates case transferred to U.S. District Court. In August, the companies then asked a federal judge to dismiss the lawsuit, contending there is no claim because there was no "actual physical harm" to the property. A federal judge denied the motion and has since granted a request by the partnership's attorney, Adam J. Schultz, to remand the case back to state Supreme Court.

Victoria Ann Streitfeld, a spokeswoman for Honeywell, said the lawsuit filed by Hoosick Falls Associates "does not affect our ongoing obligations to conduct the environmental investigations and necessary remediation outlined in two Consent Orders we voluntarily entered into in June 2016."

Dina Silver Pokedoff said Saint-Gobain will fight the lawsuit.

"Saint-Gobain Performance Plastics moved to dismiss the lawsuit brought by the owner of the Tops Supermarket property as the claims lack any merit under New York law," she said.

PFOA also was detected in private wells on the outskirts of the village and in the town of Hoosick, and also in water supplies in the town of Petersburg. Many residents, including a local physician, said there have been high incidences of aggressive forms of cancer and other health problems in the village, although no formal studies have confirmed that.

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The places in Australia where you can't drink the water

By Charis Chang, news.com.au

December 22, 2016 9:20pm

DailyTelegraph.com (Australia)

WHEN you're the father of three children, spraying your gardens with contaminated water day-in, day-out, it's hard not to feel like "collateral damage".

Queensland resident Brad Hudson is one of hundreds of Australians who may have been exposed to contaminated water, food and soil for years and are only just starting to wake up to the risks.

For 15 years, Mr Hudson used bore water to shower, clean and irrigate his garden in Oakey without realising he was exposing himself and his family to potentially cancer-causing chemicals used in firefighting foams: PFOS and PFOA.

Mr Hudson's 10 acre property is just 400m away from the Army Aviation Centre, one of the 18 sites around Australia that the Department of Defence believes could be contaminated by the foams used for nearly 50 years.

Investigations have only just started to reveal the extent of the problem, and it's now believed the chemicals have leached into the ground and surface water.

Both chemicals have been linked to kidney cancer, testicular cancer, ulcerative colitis, thyroid disease, pregnancy-induced hypertension and medically diagnosed high cholesterol in humans.

In September, the United Nation's Persistent Organic Pollutants Review Committee to the Stockholm Convention, said that PFOS and PFOA were linked to six diseases, including some cancers, and warranted a global response.

But the official line from the Federal Government is that there is no substantial proof the chemicals cause significant human health risks.

Experts have slammed the government's position and say that the chemicals are a serious risk to human health.

Mariann Lloyd-Smith, a senior policy adviser to the National Toxics Network, said she was shocked at the government's position.

"At best they're being bloody minded, and when you look at all these residents potentially affected, it's near criminal to do that," she said.

Dr Lloyd-Smith said the level of chemicals that Australia considered safe was also "extraordinarily high" compared to other countries.

Australia has set an interim level that it considers safe for PFOS and PFOA in drinking water, which is "about 78 times" what the US accepts.

The issue is so concerning that renowned activist Erin Brockovich has even pledged to advocate on behalf of residents affected by PFOS and PFOA.

Shine Lawyers is currently pulling together a class action on behalf of Oakey residents that will sue the Commonwealth, and specifically the Department of Defence.

Lawyer Peter Shannon, who is leading the action on behalf of residents, said it won't include a claim for health issues but for the negative impact on people's property and business values.

"A scheme needs to be established to ensure affected residents are properly compensated for the financial damage they've suffered and the devaluation of their property," Mr Shannon told news.com.au.

Residents have until December 23 to join the action and hundreds have already signed up.

"We are expecting approximately 500 people to join the action," he said.

Proceedings are expected to begin next year, once they have approval from the litigation funder.

'THEY ARE EXPECTING US TO SUCK IT UP'

So far, government assessments in local areas have suggested a "low and acceptable" risk to health but there was an outcry earlier this year, when a set of revised guidelines set "tolerable daily intake" levels for PFOS and PFOA in drinking water at 78 times higher than acceptable limits in the US.

To address concerns, the Australian Government commissioned a report to review the limits and a report by chemical residue safety expert Adjunct Professor Andrew Bartholomaeus endorsed the use of European standards, rather than stricter US standards, in September.

But it's cold comfort to Mr Hudson, 44, who battled testicular cancer three and half years ago and believes the full extent of the problem has yet to be revealed.

"Every second person in this town that you speak to, has got cancer," he said.

When The Courier Mail tested his irrigation bore it found PFOS at more than 425 times the maximum exposure limit.

His daughter Amba, 5, recorded PFOS and PFOA in her blood at 30 times the Australian average.

"I don't think anyone would subject themselves to the chemicals we are subjected to," he said.

"No one will come to my house and wash their hands in the water but we've got to do it everyday.

"No one is willing to swap spots but they are expecting us to suck it up."

Mr Hudson said no one could tell him whether his daughter's high chemical levels would impact her differently because she was so young, and people seemed more worried about real estate values.

"If I speak out, I'm treated like an outcast because they don't want to wreck real estate in Oakey, that's more important than health," he said.

"Australians are too laid back and don't care for fellow Australians. They feel sorry for them but they're not going to do anything."

While Mr Hudson no longer has to shower in contaminated water because his house has been hooked up to town water, he still has to wash his horses and gardens using the bore water.

“They don’t want to pay my water bill,” Mr Hudson said. “How irrational and unAustralian is that?”

The Australian Government committed this year to providing voluntary bloodtests for residents as part of a \$55 million package to deal with the contamination, but Mr Hudson is scathing of the government response so far and also of Prime Minister Malcolm Turnbull, who hasn’t visited the area.

“I’d like to see his kids suck it up, like he expects us to,” he said.

“This is the biggest thing to ever hit Australia, the biggest contamination, and what does he do? Nothing.”

Mr Hudson said the Department of Defence was treating residents like they were “collateral damage”.

“This is a multi-billion dollar problem and they’re trying to get out of it as cheap as possible,” he said. “It’s come down to dollars and sense over health.”

Mr Hudson wants to be relocated but has not had any luck negotiating this with the Department of Defence.

He estimates his six-bedroom property, with granny flats and stables, was probably worth about \$750,000 before the contamination was revealed but is probably worth far less now.

An equivalent property would probably cost about \$1.5 million to \$2 million.

“Even if I want to move out tomorrow, I’m screwed. I’m stuck in a house I have to keep paying off,” he said. “Even if I go bankrupt, I can’t even buy a new property.

“It’s not an easy thing to deal with every day, especially with kids. You’ve got to try and not let it get you down.”

THESE CHEMICALS ARE A SERIOUS RISK

Dr Mariann Lloyd-Smith is also part of the working group that reviews substances for the United Nation’s Stockholm Convention, aimed at controlling some of the world’s most dangerous chemicals. She said Australia’s representative to the UN review committee had agreed with every finding on PFOA.

But the government still insists there is no substantial proof the chemicals cause significant human health risks.

The position is also at odds with evidence available from sources such as the Dupont case in the US that found PFOA contributed to a woman’s kidney cancer after a Dupont plant contaminated local drinking water.

Dr Lloyd-Smith said letters from the case showed an in-house study circulated within the company found elevated rates of cancer like kidney cancer and endocrine disorders.

In 2005, Du Pont was fined \$US16.5 million for failing to report these findings and other data to the US Environmental Protection Agency, and last year the company was ordered to pay \$1.6 million to the woman who got kidney cancer.

When it comes to chemicals in a person’s blood, Australia has yet to set a safe limit.

But Dr Lloyd-Smith said one toxicologist for Defence suggested 2000ng/mL of PFOS in blood was safe during an inquiry into Country Fire Authority's Fiskville training base in Victoria, which has also been contaminated with PFOS.

This is significantly higher than new limits Germany introduced this year, that suggest 5ng/mL for PFOS and 2ng/mL for PFOA as safe.

Dr Lloyd-Smith said the more evidence that emerged, the lower the safe levels were getting.

"Maybe in five years time, regulators may say there is no safe level just like mercury and lead," she said.

ONGOING INVESTIGATIONS

The Department of Defence has known since 2012 that surface water leaving the RAAF Base Williamtown had elevated levels of both PFOS and PFOA but did not tell the public.

The air base located just 15km outside of Newcastle will now be remediated, along with Oakey.

A human health risk assessment found a small area immediately south of the base had higher concentrations of PFOA and PFOS. Residents have been advised not to shower, bathe or fill pools with groundwater. They have also not to drink milk from local cows or to eat beef grown within the area.

Those in the broader investigation area have been found to have a "low and acceptable" risk for eating local seafood.

Defence was providing water to more than 70 properties and will spend \$3.5 million to get homes connected to town water. It is also funding a \$9 million water treatment plant to treat contaminated water leaving Lake Cochran.

Oakey, Queensland

Residents around Oakey are preparing a class action after it was revealed groundwater around the Army Aviation Centre, which is about 3km from the town centre, had been contaminated by PFOS and PFOA.

The chemicals were found in groundwater at the site as early as 2010, and further environmental studies found that soil, sediment, surface water and groundwater on and off the site were contaminated.

The two chemicals have been found in groundwater extending about 4.5km south to the confluence of Oakey Creek and Westbrook Creek, and 2.5km west of the site.

It's considered likely that the use of groundwater containing detectable concentrations of PFAS for irrigation in the area to have resulted in the chemicals going into the soil.

A human health risk assessment released in September looked at whether the chemicals could find a way into those living in the area, via activities such as eating locally grown beef, fish, fruit and vegetables, and accidentally swallowing water during fishing, boating or swimming.

Mr Hudson is not allowed to use town water to irrigate his land or wash his horses.
Picture: David Kelly

It found that there was a "low and acceptable" risk to health associated with typical exposure to PFAS for the general community around the site. This means the level of risk is calculated to be below the threshold where potential health impacts may occur.

But it recommended a precautionary approach because people in Oakey had been found to have higher PFAS concentrations in their blood serum than would be expected.

This includes not using groundwater for drinking supply, minimising use of water for showering or to fill swimming pools in certain areas south of the site and to avoid eating eggs grown from chickens in this area.

SALE, VICTORIA

Located in an agricultural area 220km south east of Melbourne, in Victoria's Gippsland region, the RAAF Base East Sale is currently being investigated, with limited sampling finding elevated levels of PFOS in key source areas.

The base is surrounded by farms, cattle grazing and rural residential properties where shallow groundwater is used for dairy, stockwatering and for domestic (non-drinking) uses.

Deeper groundwater is the primary source for drinking water in the area but is generally not connected with shallow aquifers in the East Sale area.

A preliminary report was released in October suggested further assessment of the impacts were needed to assess whether people may be exposed to unsafe levels of PFAS within their environment.

PARMA, NSW

A preliminary site investigation has recommended a detailed report be done to analyse the extent of the problem at HMAS Albatross, located about 6km from Nowra.

BULLSBROOK, WA

More than 60 residents around the RAAF Pearce air base in the Perth suburb of Bullsbrook have been using bottle water as a precautionary measure while investigations take place.

Preliminary testing found PFOA and PFOS at Ki-it Monger Brook, which flows along its south-eastern boundary.



EDINBURGH, SOUTH AUSTRALIA

PFOS and PFOA have been found at RAAF Base Edinburgh, 25km north of Adelaide, and in two nearby wetlands.

Surface and groundwater testing at the base and on surrounding properties has started.





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